





THURSDAY, MARCH 9, 1865.

## THE CONSTITUTIONAL AMENDMENT.

Sketch of the speech of Hon. J. M. Cass, of Rock, in the Assembly on Thursday Evening, Feb. 23d.

Mr. SPEAKER—I had concluded this morning not to occupy the time of the Assembly upon this question, unless some of the few gentlemen on this floor, who are opposed to the resolution, should give me some plausible reason why they should not be adopted. But for some reason those gentlemen have remained exceedingly quiet. I have listened in vain for the musical voice of my friend from Dodge, (Mr. Jones,) who is always ready to edify and instruct the House upon ordinary questions, however trifling they may be in their character; but upon this amendment, which affects the welfare of the nation and prosperity, he has considered it prudent to remain quiet. It is true the honorable gentleman from Marquette (Mr. Pease) has given us a somewhat lengthy argument against the constitutionality of the amendment, but it is hardly necessary that I should reply to him, since his arguments have been so thoroughly refuted by the gentleman from Washington (Mr. Williams), and the gentleman from Milwaukee (Mr. Thompson), who are both members of his own political party. And yet, Sir, I am unwilling to manifest any indifference to the passage of the resolutions by remaining silent.

The importance of the question which is before us for consideration will hardly be comprehended by the wisest men of the present generation. It is only when the passions of the hour have subsided and the prejudices which have naturally grown out of the struggle, which has lasted for nearly half a century between Freedom and Slavery, have been buried in the grave, will the future be able to prepare for the facts connected with that struggle shall appear in bold relief on the pages of our national history, and the Republic shall have advanced to that high moral position which the Ruler of nations has fixed for its reception, that the people of our country will begin to appreciate the blessings of universal liberty, or comprehend the enormities, vices and crimes of African Slavery. And yet there is a sense of justice in every human heart which no partisan prejudice can destroy. The voice of conscience, though silent for a time it may be, will nevertheless, on certain occasions, ring in the ear of its possessor, and compel him, as it were, to speak out the honest sentiment of his heart, however much his old associates may urge him to remain silent. And this it is wherever we go among the masses of the people, we find men of both political parties who regard the passage of this amendment as an occasion for congratulation, rejoicing and thanks to Almighty God, rather than for deliberation and argument.

And why should it not be so? What class of men can fail to rejoice upon the adoption of a measure so ennobling in its purposes, so beneficial in its influences, and so grand in its conception as the amendment now before us? Certainly the man who has labored without hope of reward or expectation of office until his locks have been whitened with age, to emancipate the slave and restore him to manhood, will not care who he overcomes, if slavery is forever abolished throughout the Union. Such a man will rejoice, because he will remember that there was a time in the history of this government when it was more dangerous to certain parts of this Union to be an abolitionist than it was to be a slave. There was a time when rewards, ranging from \$5,000 to 10,000 were publicly offered in some of the Southern States for the heads of northern men who had never been upon their soil and whose only crime was that of exercising the constitutional right of free speech.

There was a time when Elijah Lovejoy, a scholar and gentleman, was compelled to leave St. Louis with his little press and seek refuge in Alton, in the so-called free State of Illinois, but the same policy of intolerance pursued him there, and although he protested that he was not an abolitionist, and was willing that each State should regulate the question of slavery within its own borders, yet not only was his first press destroyed, but he was shot down like a criminal while defending the second—some half a dozen bullets entering his body at the same time.

There was a time when old Benjamin Lundy and William Lloyd Garrison were mobbed and imprisoned in the slave city of Baltimore, but now one of the free cities of the Union.

There was a time when Samuel Hoar, an able lawyer and a gentleman, went with his daughter to the State of South Carolina for the simple purpose of testing the courts of that State in the question of freedom under the constitution of the United States it was lawful to sell a free colored citizen of the State of Massachusetts into slavery in South Carolina, but he and his daughter were forcibly taken from the hotel and ejected from the State, not by an infuriated mob, but through the advice of the Mayor and Sheriff of Charleston and the Governor, Attorney General and Legislature of the State.

When the abolitionist thinks of these and other outrages committed by slavery during the history of this government, he will not fail to rejoice when he learns of the adoption and ratification of this amendment.

But, Sir, there is another class who will also rejoice. The man who, although they were theoretically opposed to slavery and its extension to the territories, were nevertheless willing it should remain in the States where it existed, as long as such States saw fit to tolerate the evil, rather than to interfere with the compromises of the Constitution; but when slavery made war on the government, and thus released them from all obligations in the matter, they rejoice that they may now extricate from the soil of the Republic the institution which has so long disturbed its harmony and retarded its progress.

There is still another class who look upon the ratification of this amendment as an occasion for rejoicing. It is not composed of Abolitionists nor anti-slavery men, but men who have always been true to the interests of slavery: men who have voted for the fugitive slave law, the extension of slavery and all other measures which the slave holders have desired, but they have discovered from experience and the history of the government, that it is impossible to live in peace and permit slavery to exist in the Union.

authority of the government for violating the mails, and abstracting papers and letters printed and written at the North, and Amos Kendall, a late high priest at Chicago, but then Postmaster General of the United States, sanctioned the crime so diametrically opposed to the genius of our government. It demanded the association of Texas, in order to extend its dominion and supply its insatiable thirst with slaves. In 1850 it demanded the Fugitive Slave Law, and obtained it. In 1852 it became more arrogant, and demanded not only submission, but silence, and northern politicians got down upon their knees, and with their hands upon their mouths, and their mouths in the dust, cried, "Unholy, unholy free speech, guaranteed to us by the Constitution of our country." In 1854 it demanded the repeal of the Missouri Compromise, and obtained it. In 1857, having the wisdom of the serpent, and knowing the enormity of its crimes, it desired to be sanctified anew and anointed with judicial oil, and Dred Scott was sacrificed for the occasion. In 1860 it broke up the Democratic party, and sacrificed Douglas, its great leader. In 1861 it drew the sword and made war on the government itself, and has ever since been seeking to destroy it and rear another upon its ruins.

With such a record, and knowing the fact that there never can be any permanent peace in this nation while this wicked institution continues, the pro-slavery man, if he love his country, cannot fail to rejoice at the prospect of the early extinction of slavery, so that he may, at no distant day, devote himself to the consideration of questions which do not involve the condition of the negro.

But there is still another class who at least ought to rejoice at the passage of this amendment. It is the non-slaveholders of the South. After four years of suffering and war, they must have learned the fact, that the struggle was not inaugurated for their benefit, but for the exclusive benefit of the few hundred thousand slaveholders of the South, and knowing this fact they must naturally rejoice when they learn that the Union can never be restored upon the basis of slavery.

But there is still another class who will rejoice at the adoption of this amendment. It is not composed of the spoiled children of fortune, nor those who are surrounded by the gilded trappings of wealth and aristocracy, but of humble slaves. And as the slave catches the news along the wayside, or from the lips of his master, he will hasten to the shanty to tell his little family of the mystery of their redemption; and as he sits down in their midst and begins his story, his eye will grow brighter, and his soul will be stirred with joy, and he will feel for once in his life that he is a man; and as he looks upon his children they will seem to smile more sweetly, and the affections of his wife will seem to be more tender, for he will know that they are not to be separated in the market place nor at the auction block. And as he goes to his daily toil in the cotton field, he will learn to sing some of the beautiful songs of freedom written by Bryant and Whittier, and as he comes home at night his wife and children will be singing the same songs; and thus liberty will roll along over the whole South, from cotton field to bayou, and from mountain top to valley.

But however much the mass of the people rejoice at the passage of this amendment, yet since there are those who do not rejoice, and since this is a deliberative body, it becomes us to consider well any objection which may be brought against the measure, and then vote according to our best judgment.

The slaveholders in rebellion will never rejoice on account of the adoption of this amendment, for the cornerstone of their so-called Confederacy rests up in the institution of slavery, and as they see that stone begin to crumble, and their chance of independence fades away in the distance, as Sherman gradually marches on towards Richmond, which must sooner or later fall, and with it all hope of the rebels, they are naturally filled with mourning and lamentations, and seem to have no consolation left, but to repeat the words of the great Athenian orator, addressed to his subjunctive people, "Gravely we resolved, gravely we resolved, and gravely we have fallen."

There is but one other class who do not rejoice. They are not numerous at this time, but are scattered about the country, and may be known as a portion of those who consider themselves leaders in the late Democratic party. It is impossible, however to divine the motive, object or purpose which induces them to array themselves in opposition to this measure, unless it is that they possess in an eminent degree that quality which Edmund Burke said was so much wanting in Charles Townsend, "obstinacy." Archbishop Whately said, on a certain occasion that "the brighter the moon shines, the more the dog howls," and I am not sure but the saying is applicable to those who so vigorously oppose the amendment.

The honorable gentleman from Marquette (Mr. Pease) raised several constitutional objections to the passage of the amendment. He claims that the government is a confederation; that the States are free and independent—that the national government emanated from the States, and was founded for specific purposes, and has only such powers as are expressly delegated to it by the States; that amendments can only be made to the constitution for the purpose of facilitating the exercise of powers already granted—that the rights of the States and the General Government are independent of each other,—that slavery is one of the rights reserved to the States, and therefore beyond the reach of the general government by way of amendment or otherwise. In answer to these objections I will only say, that even if the position taken by the gentleman are all correct, yet they are not objections to voting for this amendment.

The simple question before us is, shall Wisconsin ratify the amendment, or not? whether Kentucky or Delaware will ratify it, nor whether it will have any force or effect in either of those States without their consent.

Mr. C. here argued at considerable length, that the constitutional objections were unfounded, citing Marshall on the Constitution, the Elliot's Debates, Vattel's Law of Nations, the Constitution itself, and other authorities, showing that this government was not a confederacy that it emanated from the people and not from the States; that it acts directly on the people; that although a government of delegated powers, yet it had the implied right of carrying those powers into execution, and that in the exercise of such powers it is supreme, and that, therefore, it is absurd to argue that the power of amendment applies only to questions over which the General Government has exclusive control without any amendment. He also showed that some of the rights which the States were prohibited from exercising were as local in their character as the prohibition of slavery would be, and that some of the powers delegated were local in their effect. He also cited Madison and John Quincy Adams, to show that when slavery became detrimental to the safety of the general government, it becomes a proper subject for the consideration of those charged with the general administration of the government; even without any constitutional amendment; that some of the ablest men in the Constitutional Convention advocated the

insertion of a clause immediately prohibiting the slave trade, and providing for the gradual emancipation of slavery; that without any agreement to the contrary a majority of a nation may change or modify their constitution at pleasure; that any amendment may be made to the constitution in pursuance to, and in the manner prescribed by Art. 5, except in such cases as are expressly prohibited; and even in those cases with the unanimous consent of all the States. That the people in each State in their sovereign capacity, not only consented in advance that the constitution might be amended in the manner prescribed, but also consented that such amendment, as well as the original constitution should be the supreme law of the land, anything in any State law or State constitution to the contrary notwithstanding.

Mr. Cassiday then continued; Mr. Speaker, I go still further, I hold that this amendment will become binding upon all the people of the United States, when ratified by the Legislature of three-fourths of what is usually called the loyal States. The language of the fifth article is, "when ratified by the Legislatures of three-fourths of the States." What is the meaning of the word "States"? and the word "Legislature" as used in this article and other parts of the Constitution? A State is a government which has a right to exercise public authority over the people. It is a government vested with sovereign rights and sovereign power. The States of the Union are in one sense sovereign States, because in certain matters each State governs the people within its jurisdiction. It is an organized body capable of acting and enforcing its action, and unless it is thus organized it is not a State. But it must not only be organized, but must be organized in the manner required by the Constitution. It must be organized in the form, and must have an executive and a judicial power. It must have a Legislature. Remembering that the Constitution of the United States is the supreme law of the land, "anything in the Constitution or laws of any of the States to the contrary notwithstanding," and that the members of the several State legislatures, and all executive and judicial officers, "of the several States" are unqualified to act as such until they have taken an oath or affirmation to support the Constitution of the general government, we must come to the conclusion that there are no States within the meaning of the Constitution except where they have such a organized State government, and the officers thereof have taken such oath or affirmation.

Should Wisconsin modify her constitution so as to vest the executive, legislative and judicial power in one man, it would not be a State within the meaning of the constitution of the United States, for it would have no legislature and could not choose United States Senators as provided in the third section of the first article of the Constitution.

The Governor, Legislature, and other officers of the several States of Georgia, not only never took the oath to support the Constitution, but are doing all they can to subvert and overthrow that Constitution. It is a State at all, it is foreign, and independent of the general government, which we are willing to admit. Will any one argue that the Legislature of Georgia is qualified to elect a United States Senator? If not, do not do it, it is not a Legislature within the meaning of the Constitution. It takes something more than people and land and a paper constitution to make a State. The Constitution provides that it shall be done when ratified by nine States, which was done in the fall of 1788; but everybody knows that the new government did not go into operation until it was organized in March following. Since Georgia is not a State within the meaning of the Constitution, she is incapable of ratifying this amendment, and is not to be counted in making up the three-fourths required for amendment. And she certainly has no right to claim, since she has dissolved her State government, and her people have entered into a reasonable conspiracy. This does not imply that she is out of the Union, for it is impossible for her to get out, unless she establishes her independence, which we trust she never will be able to do. The General Government has no more right to negotiate with the so-called government of Georgia than it has with the rebel confederacy, and the President was right when he recently declared that he had no authority to negotiate with either of them. And the certain fact is, that the rebellion will not prevent the slaveholders of the South from returning to the Union. Sir, I am unable to see the force of this argument. The rebellion was inaugurated for the benefit of slavery. They are intimately connected with and naturally dependent upon each other. The life of the one is the life of the other, and the death of the one will be the death of the other. There can be no permanent peace without the destruction of slavery, and the sooner the people of the South know it, the sooner the non-slaveholders will adapt themselves to the new order of things.

It is claimed that this is not the proper time to amend the Constitution, since the minds of the people are absorbed in war. But, Sir, it is always the proper time to do it. Policy and expediency have not only proved the destruction of politicians and political parties, but of governments. The time is well chosen, and it is the best that could be selected.

In the Revolution the rights of humanity were involved. The signers of the declaration of Independence were conscious of it, and so they incorporated "in the Declaration of Independence" the truth that all men are created equal, and that the Constitution became a blot at the same time as the thirteen years afterwards, we never would have been troubled with slavery in America. When Luther Martin of Maryland, stood up in the Constitutional Convention, advocating the abolition of slavery, he uttered the memorable words, "When our liberties were at stake, we warmly felt the common rights of man. The danger being thought to be past, which threatened ourselves, we are daily growing more insensible to these rights." Good always comes from tolling and suffering. Such has been the history of the world.

The bright and dark pages of history are ever alternating with each other. The bright pages are ever beckoning onward towards high and holy purposes, the dark ones to warn us against wickedness and death. Upon one page of history we read of the arbitrary struggles between the armies under Pompey and Caesar, and upon another of the liberties of Rome. Upon one page we read how the Savior of man was condemned before Pontius Pilate; and upon another how he broke the confines of the tomb and rose triumphantly into the skies. Upon one page we read of the ignorance and degradation of the dark ages, and upon another of Luther and the Reformation. Here we read of Charles the Second and his courtiers and cavaliers, and of the blind Milton with his pen vindicating the liberties of man, and Oliver Cromwell with his sword fighting for the same object. Here we read of the

Paritans fleeing from oppression and establishing themselves in the new world, and then after passing through suffering and war finally achieved their independence and liberty.

So, after these four years of war, which has sent suffering and death to every community, and caused so many homes to wear the weeds of mourning, we have at last been brought to appreciate the common rights of man, and to abolish slavery throughout the land by constitutional enactment. The rights of man are more sacred than the rights of States. The negro having bravely fought and bled and died, when there was no inducement for him to do so, except the vague hope of liberty, it is well for us to vindicate our own manhood by securing to him the exercise of all his rights, and I trust our Government will do it. During the last summer a bronze statue of Hercules was exhibited at Rome. It was found in a sort of vault, covered with flat stones and pieces of marble, and about thirty feet below the surface of the earth. It was a beautiful gift, and said to be the work of Minon II, and was seemingly perfect, except that it was minus one finger and one foot. It is a story of ideal, and represents the young Hercules, as he was about to take the apples of the Hesperides, and to one account these apples were obtained by strategy and through the agency of Atlas; but by another account they were obtained by Hercules himself, after a terrible struggle with the nine-headed Hydra, including one immortal head. It is said that Hercules seized the Hydra by the neck, and that the monster then wound himself about the legs, and feet of Hercules and held him stationary. Hercules with his club then knocked off several of the heads of the Hydra, but as fast as one was knocked off another would immediately spring out in its place. While the struggle was thus going on, a huge crab came to the assistance of the Hydra and commenced gnawing at the feet of Hercules. At length Hercules, despairing of success, called upon Iolans for assistance, who came and immediately set the woods on fire and burned off the several heads of the Hydra, and last of all they burned off the immortal head, and also severed his body, and the monster immediately expired at the feet of Hercules, who thereupon plucked the apples at his pleasure and carried them forward to Erythraea according to his command.

Sir, Congress should take measures to procure that bronze statue of Hercules, and the golden apples, and also procure a bronze statue of Iolans, and one representing the Hydra, and another the Crab, and have them all placed in the rotunda at Washington, since they very properly represent the condition of our country at the present time. Let the bronze Hercules with his scars, represent the government of the United States. Let the Hydra represent slavery as it was fastened and entwined about the body politic. Let Iolans, with his brands of fire, represent the Union armies which with the aid of the government, have severed the body, and burned off most of the heads of slavery, and now by this amendment, the immortal head will be destroyed. Let the Crab represent that portion of the copperhead fraternity, who have during these years of war been laboring to destroy the foundation stones of the Republic. Let the three golden apples with one Hercules be about to pluck, represent at liberty, equality and victory, which he expects to carry forward, not to Erythraea in pursuance of his command, but to future generations in obedience to the command of God. Thus the picture is complete.

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